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9	IN THE UNITED STATES DISTRICT COURT		
10	FOR THE NORTHERN DISTRICT OF CALIFORNIA		
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12	SAMUEL W. LEWIS,) No. C 08-03934 JF (PR)		
13	Petitioner,) ORDER GRANTING) CERTIFICATE OF		
14	vs.) APPEALABILITY)		
15	BEN CURRY, Warden,)		
16	Respondent.)		
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18	This case has been remanded to the district court for the limited purpose of granting or denying a certificate of appealability. See 28 U.S.C. § 2253(c); Fed. R. App.		
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20	P. 22(b); <u>United States v. Asrar</u> , 116 F.3d 1268, 1270 (9th Cir. 1997). Petitioner filed a		
21	notice of appeal from the district court's denial of his petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging the California Board of Prison Terms ("Board") decision denying him parole. Therefore, the district court is required to grant or deny a		
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certificate of appealability in the first instance. See <u>Hayward v. Marshall</u> , 603 F.3d			
26	(9th Cir. 2010) (en banc). The Court finds that jurists of reason would find it debatable whether Petitioner's		
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28	right to due process was violated by the Board's decision denying him parole based upon		
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his claim that there is no evidence to support the Board's finding that he is unsuitable for parole. Therefore, the request for a certificate of appealability is GRANTED. The Clerk shall transmit the file, including a copy of this order, to the Court of Appeals and close the file. IT IS SO ORDERED. DATED: <u>7/16/10</u> United States District Judge

UNITED STATES DISTRICT COURT FOR THE

NORTHERN DISTRICT OF CALIFORNIA

SAMUEL W. LEWIS,	Case Number: CV08-03934 JF	
Petitioner,	CERTIFICATE OF SERVICE	
V.		
WARDEN BEN CURRY,		
Respondent.		
I, the undersigned, hereby certify the Court, Northern District of Californ	nat I am an employee in the Office of the Clerk, U.S. District nia.	
placing said copy(ies) in a postage	I SERVED a true and correct copy(ies) of the attached, by paid envelope addressed to the person(s) hereinafter listed, by Mail, or by placing said copy(ies) into an inter-office clerk's office.	
Samuel W. Lewis E05524 Correctional Training Facility P.O. Box 689 Soledad, CA 93960-0689		
Dated: 7/26/10		
	Richard W. Wieking, Clerk By: Christine Allen, Deputy Clerk	

Samuel W. Lewis E05524 Correctional Training Facility P.O. Box 689 Soledad, CA 93960-0689

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